

WS  
11-26-02

**CITY COUNCIL WORK SESSION  
with the  
STATE LEGISLATIVE DELEGATION**

**TUESDAY, NOVEMBER 26, 2002  
6:00 P.M.  
COUNCIL WORKROOM**

**AGENDA**

- A. Welcome and Comments by the Mayor *Mayor Kerry Donley*
- B. Discussion of the Legislative Package Proposals *Mayor Kerry Donley*  
*Legislative Director Bernard Caton*
1. Increasing the Recordation Tax (Propose Legislation)
  2. Funding for Transit (Propose Legislation)
  3. Amending Authority to Levy an Admissions Tax (Propose Legislation)
  4. Assessments on New Buildings (Propose Legislation)
  5. Child Day Care Funding Issues (Propose Budget Language)
  6. Privileged Communications: Sexual Assault & Domestic Violence Victims  
(Propose Study)
  7. Payments to Foster Care Parents (Propose Study)
  8. Virginia Juvenile Community Crime Control Act (Support Funding)
  9. Education Funding (Support Legislation)
  10. Revisions to the Red Light Camera Law (Support Legislation)
  11. Funding for Pre- and Post-Release Services (Support Funding)
  12. State Earned Income Tax Credit (Support Legislation)
  13. Community Services Block Grants (Support Funding)
  14. Issues Endorsed by the Alexandria Commission on Aging (Support Funding)
  15. VHDA Loan Eligibility (Support Legislation)

16. Restoration of Civil Rights for Felons (Support Legislation)
17. Motor Vehicle Accident Investigations (Support Legislation)
18. Yielding to Pedestrians in Crosswalks (Support Legislation)
19. State Surcharge on Municipal Solid Waste (WTE) (Oppose Surcharge on WTE)
20. Cluster Developments (Oppose Legislation)

C. Other Issues

Design Standards and Development

*Councilwoman Claire Eberwein*

D. City Council Discussion of Legislative Package

E. Determination of Delegation Sponsors and Comments by  
Members of the General Assembly Delegation

*Delegate Karen Darner  
Delegate Brian Moran  
Delegate Marian Van Landingham  
Senator Richard Saslaw  
Senator Patsy Ticer*

*Individuals with disabilities who require assistance or special arrangements to participate in the City Council Work Session may call the City Clerk and Clerk of Council's Office at 703-838-4500 (TTY/TDD 703-838-5056). We request that you provide 48-hour notice so that the proper arrangements may be made.*

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11-26-02

Date: November 13, 2002  
To: Councilwoman Claire Eberwein  
From: Barbara Ross  
Subject: Design standards legislation

At our meeting with Bernie Caton awhile back, you asked that I supply you with talking points on a potential charter change or legislation to assist the planning process, by allowing the zoning ordinance to include design standards, etc. You thought the subject was probably not right this year, and I assume it is too late anyway, but you wanted to raise the issue so people could think about it as a possibility for next year. These are the points we previously discussed.

- There is a need in this city, as in all cities, to provide guidance to builders, developers, and even homeowners, about what they can do with their property. In order to achieve the best designs, we should be able to include design standards and criteria in the zoning ordinance, which could be implemented at the staff level without the necessity of a SUP or a BAR type regulatory system.
- Some of the problems that design standards and guidelines could solve include:
  - preserving moderate density neighborhoods, such as Lynhaven; not allowing wholesale teardown and redevelopment of blocks in existing neighborhoods.
  - protecting residential neighborhoods from infill development (tear downs, building on vacant lots, additions to existing houses) that are out of character with the long-established neighborhood.
  - guiding appropriate redevelopment of commercial streets, consistent with a design plan for the street.
  - directing the shape, size and compatibility of large new development proposals with adopted area plans.
- What we currently do in the city is use the SUP process for the large developments and a few smaller ones. We also of course use the BAR mechanism to govern all exterior alterations on buildings in the historic districts.
- Under current state law, we could expand those controls by creating design districts, including *areas of unique architectural value in conservation, rehabilitation or redevelopment districts*. However, under section 15.2-2306 of the state code, if we do that we must *create a review board* (which can be City Council) to review design matters within the district. This would be similar to the BAR function and creates more regulation, instead of more guidance and incentive to developers.
- A current proposal, HB 1630, which was introduced last year (by Callahan), would expand the design districts that can be created to include ones to protect visual resources. While we would support that, it too would require a design board to review proposals within the design district and does not get Alexandria where it wants to be. At any rate there does not seem to be broad support for the amendment.

- What Alexandria needs is the ability to have our zoning ordinance include design standards and criteria for development, redevelopment, and perhaps even infill additions, without forcing everyone to come before a design board or to City Council with a SUP.
- Because it is so difficult to achieve this type of authority as general legislation in Richmond, we may want to consider a charter change next year.

If you have any questions or want to discuss this further, please call me.

cc: Eileen Fogarty  
Bernard Caton

## 2001 SESSION

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### HOUSE BILL NO. 1630

Offered January 10, 2001

Prefiled November 30, 2000

*A BILL to amend and reenact §§ 15.2-2201 and 15.2-2306 of the Code of Virginia, relating to historic preservation.*

Patron—Callahan

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2201 and 15.2-2306 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2201. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Architectural area" means an area where the visual impact of buildings and development can be significant on the economic, cultural, or scenic attributes of the community. These areas may include natural or scenic areas; conservation, rehabilitation, and redevelopment areas; or new economic development and employment centers.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control ~~which~~ that is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any property ~~which~~ that will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features or amenities desired by the locality within the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat of subdivision" means the schematic representation of land divided or to be divided.

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HB1630

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"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use, that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

§ 15.2-2306. Preservation of historical sites and architectural areas.

A. 1. a. *It is the policy of the Commonwealth to protect and enhance the quality of its historic, architectural, archaeological, cultural, and visual resources, whether natural or manmade, which distinguish Virginia as one of the most beautiful states in the country; which contribute to its communities' character and sense of place; which contribute tangible and intangible benefits such as improved quality of life for its citizens and a rich legacy for future generations; and which strengthen the economic base of the Commonwealth and its communities by encouraging tourism and attracting new businesses. It is the purpose of this section to provide a means for localities to protect and enhance the quality of its historic, architectural, archaeological, cultural, and visual resources as aesthetic and economic assets of major importance.*

b. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.1, including § 33.1-41.1 of that title) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) of this chapter. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

108       2. Subject to the provisions of subdivision 3 of this subsection the governing body may provide in  
109 the ordinance that no historic landmark, building or structure within any district shall be razed,  
110 demolished or moved until the razing, demolition or moving thereof is approved by the review board,  
111 or, on appeal, by the governing body after consultation with the review board.

112       3. The governing body shall provide by ordinance for appeals to the circuit court for such locality  
113 from any final decision of the governing body pursuant to subdivisions 1 and 2 of this subsection and  
114 shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to  
115 appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of  
116 the action of the governing body, provided the petition is filed within thirty days after the final  
117 decision is rendered by the governing body. The filing of the petition shall stay the decision of the  
118 governing body pending the outcome of the appeal to the court, except that the filing of the petition  
119 shall not stay the decision of the governing body if the decision denies the right to raze or demolish a  
120 historic landmark, building or structure. The court may reverse or modify the decision of the  
121 governing body, in whole or in part, if it finds upon review that the decision of the governing body is  
122 contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm  
123 the decision of the governing body.

124       In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building  
125 or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of this  
126 subsection, shall, as a matter of right, be entitled to raze or demolish such landmark, building or  
127 structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for  
128 the period of time set forth in the same schedule hereinafter contained and at a price reasonably  
129 related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and  
130 the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency  
131 thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing  
132 to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no  
133 bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such  
134 landmark, building or structure, and the land pertaining thereto, prior to the expiration of the  
135 applicable time period set forth in the time schedule hereinafter contained. Any appeal ~~which~~ *that*  
136 may be taken to the court from the decision of the governing body, whether instituted by the owner  
137 or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the  
138 decision appealed from shall not affect the right of the owner to make the bona fide offer to sell  
139 referred to above. No offer to sell shall be made more than one year after a final decision by the  
140 governing body, but thereafter the owner may renew his request to the governing body to approve the  
141 razing or demolition of the historic landmark, building or structure. The time schedule for offers to  
142 sell shall be as follows: three months when the offering price is less than \$25,000; four months when  
143 the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is  
144 \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but  
145 less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000;  
146 and twelve months when the offering price is \$90,000 or more.

147       4. The governing body is authorized to acquire in any legal manner any historic area, landmark,  
148 building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of  
149 the governing body should be acquired, preserved and maintained for the use, observation, education,  
150 pleasure and welfare of the people; provide for their renovation, preservation, maintenance,  
151 management and control as places of historic interest by a department of the locality or by a board,  
152 commission or agency specially established by ordinance for the purpose; charge or authorize the  
153 charging of compensation for the use thereof or admission thereto; lease, subject to such regulations  
154 as may be established by ordinance, any such area, property, lands or estate or interest therein so  
155 acquired upon the condition that the historic character of the area, landmark, building, structure or  
156 land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation  
157 for the management, preservation, maintenance or operation of any such area, landmark, building,  
158 structure, land pertaining thereto or interest therein so acquired as a place of historic interest;  
159 however, the locality shall not use the right of condemnation under this subsection unless the historic  
160 value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is  
161 about to be destroyed.

B. In addition to the powers stated in clause b of subdivision A1, any locality may adopt an ordinance setting forth architectural areas as defined by § 15.2-2201 and as established in the locality's comprehensive plan. An amendment of the zoning ordinance and the establishment of one or more architectural districts encompassing such architectural areas shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) of this chapter. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the approving body, or on appeal by the governing body, as being architecturally compatible with the goals and purpose of the architectural area, as established in this section. Any locality that adopts an architectural district shall adopt standards consistent with the policy and purposes of the architectural area to guide decision making within the district. The governing body may provide for the review board, as established in subdivision A1, or other body or agency of the locality, as the reviewing body. However, the governing body may also reserve unto itself the right of review and approval within such district, particularly if approval is part of a review of change in zoning or application for a special exception.

C. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve the handicapped at any structure designated pursuant to the provisions of this section.

Official Use By Clerks			
<b>Passed By</b>		<b>Passed By The Senate</b>	
<b>The House of Delegates</b>			
with amendment	<input type="checkbox"/>	with amendment	<input type="checkbox"/>
substitute	<input type="checkbox"/>	substitute	<input type="checkbox"/>
substitute w/amdt	<input type="checkbox"/>	substitute w/amdt	<input type="checkbox"/>
Date: _____		Date: _____	
_____		_____	
Clerk of the House of Delegates		Clerk of the Senate	